



General Assembly

January Session, 2007

Committee Bill No. 703

LCO No. 5204

05204SB00703PS_

Referred to Committee on Public Safety and Security

Introduced by:
(PS)

AN ACT MANDATING FIRE SAFE CIGARETTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2008*) As used in section 12-302
2 of the general statutes, as amended by this act, sections 1 to 4,
3 inclusive, and sections 6 to 9, inclusive, of this act, unless the context
4 clearly indicates otherwise:

5 (1) "Cigarette" means any product that contains nicotine, is intended
6 to be burned or heated under ordinary conditions of use, and consists
7 of or contains (A) any roll of tobacco wrapped in paper or in any
8 substance not containing tobacco; or (B) tobacco, in any form, that is
9 functional in the product, which, because of its appearance, the type of
10 tobacco used in the filler, or its packaging and labeling, is likely to be
11 offered to, or purchased by, consumers as a cigarette; and (C) any roll
12 of tobacco wrapped in any substance containing tobacco which,
13 because of its appearance, the type of tobacco used in the filler, or its
14 packaging and labeling, is likely to be offered to, or purchased by,
15 consumers as a cigarette described in subparagraph (A) of this
16 subdivision. The term "cigarette" includes roll-your-own tobacco,
17 meaning any tobacco which, because of its appearance, type,

18 packaging or labeling is suitable for use and likely to be offered to, or
19 purchased by, consumers as tobacco for making cigarettes. For
20 purposes of this definition of "cigarette", 0.09 ounces of roll-your-own
21 tobacco shall constitute one individual "cigarette";

22 (2) "Manufacturer" means (A) any entity that manufactures or
23 otherwise produces cigarettes or causes cigarettes to be manufactured
24 or produced anywhere that such manufacturer intends to be sold in
25 the state, including cigarettes intended to be sold in the United States
26 through an importer; (B) the first purchaser anywhere that intends to
27 resell in the United States cigarettes manufactured anywhere that the
28 original manufacturer or maker does not intend to be sold in the
29 United States; or (C) any entity that becomes a successor of an entity
30 described in subparagraph (A) or (B) of this subdivision;

31 (3) "Quality control and quality assurance program" means the
32 laboratory procedures implemented to ensure that operator bias,
33 systematic and nonsystematic methodological errors and equipment-
34 related problems do not affect the results of the testing;

35 (4) "Repeatability" means the range of values within which the
36 repeat results of cigarette test trials from a single laboratory will fall
37 ninety-five per cent of the time;

38 (5) "Retail dealer" means any person, other than a manufacturer or
39 wholesale dealer, engaged in selling cigarettes or tobacco products;

40 (6) "Sale" means any transfer of title or possession, or both, exchange
41 or barter, conditional or otherwise, in any manner and by any means,
42 and includes, but is not limited to, the giving of cigarettes as samples,
43 prizes or gifts, and the exchanging of cigarettes for any consideration;

44 (7) "Sell" means to sell, or to offer or agree to do the same; and

45 (8) "Wholesale dealer" means any person other than a manufacturer
46 who sells cigarettes or tobacco products to retail dealers or other
47 persons for purposes of resale, and any person who owns, operates or

48 maintains one or more cigarette or tobacco product vending machines
49 in, at or upon premises owned or occupied by any other person.

50 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Except as provided in
51 subsection (f) of this section, no cigarettes may be sold or offered for
52 sale in the state or offered for sale or sold to persons located in the state
53 unless the cigarettes have been tested in accordance with the test
54 method and meet the performance standard specified in this section, a
55 written certification has been filed by the manufacturer with the Office
56 of the State Marshal in accordance with section 3 of this act, and the
57 cigarettes have been marked in accordance with section 4 of this act.
58 All testing by the manufacturer or testing performed or sponsored by
59 the Office of the State Fire Marshal to determine a cigarette's
60 compliance with the performance standard required shall be
61 conducted in accordance with the following requirements:

62 (1) Testing of cigarettes shall be conducted in accordance with the
63 American Society of Testing and Materials or "ASTM" standard E2187-
64 04, "Standard Test Method for Measuring the Ignition Strength of
65 Cigarettes" or a subsequent ASTM Standard Test Method for
66 measuring the ignition strength of cigarettes upon a finding by the
67 State Fire Marshal that such subsequent method does not result in a
68 change in the percentage of full-length burns exhibited by any tested
69 cigarette;

70 (2) Testing shall be conducted on ten layers of filter paper;

71 (3) Not more than twenty-five per cent of the cigarettes tested in a
72 test trial in accordance with this section shall exhibit full-length burns.
73 Forty replicate tests shall comprise a complete test trial for each
74 cigarette tested;

75 (4) The performance standard required by this section shall only be
76 applied to a complete test trial;

77 (5) Written certifications shall be based upon testing conducted by a

78 laboratory that has been accredited pursuant to standard ISO or IEC
79 17025 of the International Organization for Standardization or other
80 comparable accreditation standard required by the Office of the State
81 Fire Marshal;

82 (6) Laboratories conducting testing in accordance with this section
83 shall implement a quality control and quality assurance program that
84 includes a procedure that will determine the repeatability of the testing
85 results. The repeatability value shall be no greater than 0.19; and

86 (7) No additional testing is required if cigarettes are tested
87 consistent with this section for any other purpose.

88 (b) Each cigarette that uses lowered permeability bands in the
89 cigarette paper to achieve compliance with the performance standard
90 set forth in this section shall have not less than two nominally identical
91 bands on the paper surrounding the tobacco column. At least one
92 complete band shall be located not less than fifteen millimeters from
93 the lighting end of the cigarette. For cigarettes on which the bands are
94 positioned by design, there shall be not less than two bands fully
95 located at least fifteen millimeters from the lighting end and ten
96 millimeters from the filter end of the tobacco column, or ten
97 millimeters from the labeled end of the tobacco column for nonfiltered
98 cigarettes.

99 (c) A manufacturer of a cigarette that the State Fire Marshal
100 determines cannot be tested in accordance with the test method
101 prescribed in subdivision (1) of subsection (a) of this section may
102 propose an alternate test method and performance standard for the
103 cigarette to the State Fire Marshal. Upon approval and a determination
104 by the State Fire Marshal that the performance standard proposed by
105 the manufacturer is equivalent to the performance standard prescribed
106 in subdivision (3) of subsection (a) of this section, the manufacturer
107 may employ such test method and performance standard to certify
108 such cigarette pursuant to section 3 of this act.

109 (d) Each manufacturer shall maintain copies of the reports of all
110 tests conducted on all cigarettes offered for sale for a period of three
111 years, and shall provide copies of these reports to the State Fire
112 Marshal and the Attorney General upon written request. Any
113 manufacturer who fails to provide such copies not later than sixty days
114 after receiving a written request shall be subject to a civil penalty not to
115 exceed ten thousand dollars for each day after the sixtieth day that the
116 manufacturer does not make such copies available.

117 (e) The State Fire Marshal shall review the effectiveness of the
118 testing methods employed and shall submit a report to the joint
119 standing committee of the General Assembly having cognizance of
120 matters relating to public safety, in accordance with section 11-4a of
121 the general statutes, containing the State Fire Marshal's findings and, if
122 appropriate, recommendations for legislation to improve the
123 effectiveness of the testing methods employed. Such report shall be
124 submitted not later than June 30, 2011, and every three years
125 thereafter.

126 (f) Nothing in this section shall be construed to prohibit: (1)
127 Wholesale or retail dealers from selling their existing inventory of
128 cigarettes on or after January 1, 2008, if the wholesale or retail dealer
129 can establish that state tax stamps were affixed to the cigarettes prior
130 to the effective date of this section and the wholesale or retail dealer
131 can establish that the inventory was purchased prior to January 1,
132 2008, in comparable quantity to the inventory purchased during the
133 same period of the prior year; or (2) the sale of cigarettes solely for the
134 purpose of consumer testing. For purposes of this subsection, the term
135 "consumer testing" shall mean an assessment of cigarettes that is
136 conducted by or under the control of a manufacturer for the purpose of
137 evaluating consumer acceptance of such cigarettes, utilizing only the
138 quantity of cigarettes that is reasonably necessary for such assessment,
139 and in a controlled setting where the cigarettes are either consumed
140 on-site or returned to the testing administrators at the conclusion of
141 the testing.

142 Sec. 3. (NEW) (*Effective January 1, 2008*) (a) Each manufacturer shall
143 submit to the Office of the State Fire Marshal a written certification on
144 a form prescribed by the State Fire Marshal every three years attesting
145 that: (1) Each cigarette listed in the certification has been tested in
146 accordance with section 2 of this act; and (2) each cigarette listed in the
147 certification meets the performance standard set forth in section 2 of
148 this act.

149 (b) The certification shall list the following information for each
150 cigarette listed: (1) Brand, or trade name on the package; (2) style, such
151 as light or ultra light; (3) length in millimeters; (4) circumference in
152 millimeters; (5) flavor, such as menthol or chocolate, if applicable; (6)
153 filter or nonfilter; (7) package description, such as soft pack or box; (8)
154 marking pursuant to section 4 of this act; (9) the name, address and
155 telephone number of the laboratory, if different than the manufacturer
156 that conducted the test; and (10) the date that the testing occurred.

157 (c) Each certification may be provided to the Attorney General for
158 the purposes of ensuring compliance with this section.

159 (d) For each cigarette listed in a certification, a manufacturer shall
160 pay to the State Fire Marshal a fee of two hundred fifty dollars. The
161 State Fire Marshal may annually adjust this fee, in regulations adopted
162 in accordance with chapter 54 of the general statutes, to ensure that
163 such fee defrays the actual costs of the processing, testing, enforcement
164 and oversight activities of the State Fire Marshal.

165 (e) If a manufacturer has certified a cigarette pursuant to this
166 section, and thereafter makes any change to such cigarette that is likely
167 to alter its compliance with the reduced cigarette ignition propensity
168 standards required by section 2 of this act, that cigarette shall not be
169 sold or offered for sale in the state until the manufacturer retests the
170 cigarette, in accordance with the testing and recording requirements
171 set forth in section 2 of this act, and finds that the cigarette meets such
172 standards.

173 Sec. 4. (NEW) (*Effective January 1, 2008*) (a) Prior to the certification
174 of a cigarette, a manufacturer shall present its proposed marking to the
175 State Fire Marshal for approval. Proposed markings shall be deemed
176 approved if the State Fire Marshal fails to act not later than ten
177 business days after receiving a request for approval. The marking shall
178 be in eight-point type or larger and consist of: (1) Modification of the
179 product UPC Code to include a visible mark printed at or around the
180 area of the UPC Code. The mark may consist of alphanumeric or
181 symbolic characters permanently stamped, engraved, embossed or
182 printed in conjunction with the UPC; (2) any visible combination of
183 alphanumeric or symbolic characters permanently stamped, engraved
184 or embossed upon the cigarette package or cellophane wrap; (3)
185 printed, stamped, engraved or embossed text that indicates that the
186 cigarettes meet the standards of sections 1 to 3, inclusive, of this act; or
187 (4) the letters "FSC", which signifies Fire Standards Compliant
188 appearing in eight-point type or larger and be permanently printed,
189 stamped, engraved or embossed on the package at or near the UPC
190 code.

191 (b) A manufacturer shall use only one marking, and shall apply this
192 marking uniformly for all packages, including, but not limited to,
193 packs, cartons, and cases, and brands marketed by that manufacturer.
194 No manufacturer shall modify its approved marking unless the
195 modification has been approved by the State Fire Marshal in
196 accordance with this section.

197 (c) Manufacturers shall provide a copy of the certifications to all
198 wholesale dealers and agents to which they sell cigarettes, and shall
199 also provide sufficient copies of an illustration of the package marking
200 utilized by the manufacturer pursuant to this section for each retail
201 dealer to which the wholesale dealers or agents sell cigarettes.
202 Wholesale dealers and agents shall provide a copy of these package
203 markings received from manufacturers to all retail dealers to which
204 they sell cigarettes. Wholesale dealers, agents and retail dealers shall
205 permit the State Fire Marshal, the Commissioner of Revenue Services,

206 the Attorney General and their employees to inspect markings of
207 cigarette packaging marked in accordance with this section.

208 (d) Nothing in this section shall be construed to prohibit any person
209 or entity from manufacturing or selling cigarettes that do not meet the
210 requirements of this section if the cigarettes are or shall be stamped for
211 sale in another state or are packaged for sale outside the United States
212 and that person or entity has taken reasonable steps to ensure that
213 such cigarettes will not be sold or offered for sale to persons located in
214 this state.

215 Sec. 5. Section 12-302 of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective January 1, 2008*):

217 (a) Except as otherwise provided in subsection (b) of this section,
218 each distributor shall affix, or cause to be affixed, at the location for
219 which such distributor's license is issued, in such manner as the
220 commissioner may specify in regulations issued pursuant to this
221 chapter, to each individual package of cigarettes sold or distributed by
222 the distributor, stamps of the proper denomination, as required by
223 section 12-296. Such stamps may be affixed by a distributor at any time
224 before the cigarettes are transferred out of the distributor's possession.

225 (b) No distributor shall affix, or cause to be affixed, to a package of
226 cigarettes sold or distributed by such distributor, stamps, if the
227 package (1) is not labeled in conformity with the requirements of the
228 federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC
229 1331 et seq., or any other federal requirement for the placement of
230 labels, warnings and other information, applicable to packages of
231 cigarettes that are intended to be sold within the United States; (2)
232 bears any label or notice prescribed by the United States Department
233 of Treasury to identify cigarettes intended for export and exempt from
234 tax by the United States pursuant to 26 USC 5704(b), including "For
235 export only", "U.S. Tax-exempt", "For use outside U.S." or similar
236 wording indicating that the manufacturer did not intend that the
237 product be sold within the United States, including any notice or label

238 described in 27 CFR 290.185; (3) has been imported into the United
239 States after January 1, 2000, in violation of 26 USC 5754 or regulations
240 adopted thereunder; (4) in any way violates federal trademark or
241 copyright law or if all federal taxes due have not been paid on the
242 cigarettes; (5) has been modified or altered by a person other than the
243 manufacturer or person specifically authorized by the manufacturer,
244 including modification or alteration by the placement of a sticker or
245 label to cover information, including the wording, labels or warnings
246 described in subdivision (1) or (2) of this subsection, on the package;
247 [or] (6) has been manufactured or sold by a tobacco product
248 manufacturer that is in violation of subdivision (2) of subsection (a) of
249 section 4-28i or section 4-28j and the distributor has been notified by
250 the commissioner of such violation; or (7) that has not been marked in
251 accordance with section 4 of this act. Notwithstanding the provisions
252 of section 12-15, the commissioner may disclose to the public the name
253 of any person who has violated the provisions of section 4-28i or 4-28j.

254 Sec. 6. (NEW) (*Effective January 1, 2008*) (a) A manufacturer,
255 wholesale dealer, agent or any other person or entity who knowingly
256 sells or offers to sell cigarettes, other than through retail sale, in
257 violation of section 2 of this act, shall be subject to a civil penalty not to
258 exceed one hundred dollars for each pack of such cigarettes sold or
259 offered for sale provided that in no case shall the penalty against any
260 such person or entity exceed one hundred thousand dollars during any
261 thirty-day period.

262 (b) A retail dealer who knowingly sells or offers to sell cigarettes in
263 violation of section 2 of this act shall be subject to a civil penalty not to
264 exceed one hundred dollars for each pack of such cigarettes sold or
265 offered for sale, provided that in no case shall the penalty against any
266 retail dealer exceed twenty-five thousand dollars for sales or offers to
267 sell during any thirty-day period.

268 (c) In addition to any penalty prescribed by law, any corporation,
269 partnership, sole proprietor, limited partnership or association

270 engaged in the manufacture of cigarettes that knowingly makes a false
271 certification pursuant to section 2 of this act shall be subject to a civil
272 penalty of not less than seventy-five thousand dollars and not to
273 exceed two hundred fifty thousand dollars for each such false
274 certification.

275 (d) Any person violating any provision of sections 3 and 4,
276 inclusive, of this act shall be subject to a civil penalty for a first offense
277 not to exceed one thousand dollars, and for a subsequent offense
278 subject to a civil penalty not to exceed five thousand dollars for each
279 such violation.

280 (e) In addition to any other remedy provided by law, the Attorney
281 General may file an action in the superior court for the judicial district
282 of Hartford for a violation of any provision of sections 1 to 4, inclusive,
283 of this act, or section 12-302 of the general statutes, as amended by this
284 act, including petitioning for injunctive relief or to recover any costs or
285 damages suffered by the state due to a violation, including
286 enforcement costs relating to the specific violation and attorney's fees.
287 Each violation constitutes a separate and distinct civil offense for
288 which the Attorney General may obtain relief.

289 (f) Whenever any member of law enforcement personnel or duly
290 authorized local or state fire marshal discovers any cigarettes that have
291 not been tested in accordance with section 2 of this act or marked in
292 the manner required by section 4 of this act, such member or fire
293 marshal may seize and take possession of such cigarettes. Such
294 cigarettes shall be turned over to the Commissioner of Revenue
295 Services and shall be forfeited to the state. Cigarettes seized pursuant
296 to this section shall be destroyed, provided, however, that prior to the
297 destruction of any cigarette seized pursuant to these provisions, the
298 true holder of the trademark rights in the cigarette brand shall be
299 permitted to inspect the cigarette.

300 Sec. 7. (NEW) (*Effective January 1, 2008*) The State Fire Marshal, in
301 consultation with the Commissioner of Revenue Services, may adopt

302 regulations, in accordance with chapter 54 of the general statutes, as
303 necessary to effectuate the purposes of section 12-302 of the general
304 statutes, as amended by this act, sections 1 to 4, inclusive, and sections
305 6 to 9, inclusive, of this act.

306 Sec. 8. (NEW) (*Effective January 1, 2008*) (a) The Commissioner of
307 Revenue Services in the regular course of conducting inspections of
308 wholesale dealers, agents and retail dealers, as authorized under
309 chapter 214a of the general statutes, may inspect such cigarettes to
310 determine if the cigarettes are marked as required by section 4 of this
311 act. If the cigarettes are not marked as required, the Commissioner of
312 Revenue Services shall notify the State Fire Marshal.

313 (b) The Attorney General, the Commissioner of Revenue Services
314 and the State Fire Marshal, their duly authorized representatives and
315 other law enforcement personnel may examine the books, papers,
316 invoices and other records of any person in possession, control or
317 occupancy of any premises where cigarettes are placed, stored, sold or
318 offered for sale, as well as the stock of cigarettes on the premises.
319 Every person in the possession, control or occupancy of any premises
320 where cigarettes are placed, sold or offered for sale, shall be required
321 to give the Attorney General, the Commissioner of Revenue Services
322 and the State Fire Marshal, their duly authorized representatives and
323 other law enforcement personnel the means, facilities and opportunity
324 for the examinations authorized by this section.

325 Sec. 9. (NEW) (*Effective July 1, 2007*) There is established in the
326 General Fund a separate, nonlapsing account to be known as the fire
327 safety standard and firefighter protection act enforcement account. The
328 account shall contain all certification fees submitted by manufacturers
329 in accordance with section 2 of this act any penalties collected
330 pursuant to section 6 of this act and any other moneys required by law
331 to be deposited in the account. The proceeds of the account shall be
332 used by the State Fire Marshal solely to fund the processing, testing,
333 enforcement and oversight activities specified in section 12-302 of the

334 general statutes, as amended by this act, sections 1 to 4, inclusive, and
335 sections 6 to 8, inclusive, of this act.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>January 1, 2008</i> | New section |
| Sec. 2 | <i>January 1, 2008</i> | New section |
| Sec. 3 | <i>January 1, 2008</i> | New section |
| Sec. 4 | <i>January 1, 2008</i> | New section |
| Sec. 5 | <i>January 1, 2008</i> | 12-302 |
| Sec. 6 | <i>January 1, 2008</i> | New section |
| Sec. 7 | <i>January 1, 2008</i> | New section |
| Sec. 8 | <i>January 1, 2008</i> | New section |
| Sec. 9 | <i>July 1, 2007</i> | New section |

Statement of Purpose:

To require cigarette manufacturers to make cigarettes that are self-extinguishing in order to reduce the number of fires caused by carelessly discarded cigarettes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. GAFFEY, 13th Dist.

S.B. 703